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COMMITTEE ON THE PEACEFUL
USES OF OUTER SPACE

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTY-SEVENTH SESSION (23-31 MARCH 1998)

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INTRODUCTION

Opening of the session and election of the Chairman

1. The Legal Subcommittee held its thirty-seventh session at the United Nations Office at Vienna from 23 to 31 March 1998 under the chairmanship of Václav Mikulka (Czech Republic).

2. At its opening meeting, the Legal Subcommittee recalled that the Committee on the Peaceful Uses of Outer Space at its fortieth session, in 1997, had adopted new measures concerning the composition of the bureaux of the Committee and its subsidiary bodies, agenda structures and duration of sessions.[1] At that time, the Committee had agreed that, for the first three-year term, the Chairman of the Legal Subcommittee should be Václav Mikulka (Czech Republic).[2]

3. At its 605th meeting, the Legal Subcommittee elected Václav Mikulka as its Chairman for the first three-year term on the basis of the new work measures adopted by the Committee.

4. At the opening meeting, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its current session. The Chairman's statement is contained in verbatim (unedited) transcript COPUOS/Legal/T.605.

Adoption of the agenda

5. At its opening meeting, the Legal Subcommittee adopted the following agenda:

1. Opening of the session and election of the Chairman.

2. Statement by the Chairman.

3. Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

4. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

5. Review of the status of the five international legal instruments governing outer space.

6. Other matters.

Attendance

6. Representatives of the following States members of the Subcommittee attended the session: Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, France, Germany, Greece, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Lebanon, Malaysia, Mexico, Morocco, Netherlands, Pakistan, Peru, Philippines, Poland, Romania, Russian Federation, South Africa, Spain, Sudan, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

7. Representatives of the following specialized agencies and international organizations attended the session: United Nations Educational, Scientific and Cultural Organization (UNESCO), International Telecommunication Union (ITU), European Space Agency (ESA) and International Astronautical Federation (IAF).

8. The Chairman informed the Subcommittee at its 605th, 606th, 607th and 608th meetings that requests to participate in meetings of the Subcommittee had been received from the permanent representatives of Bolivia, Cuba, Finland, Republic of Korea and Slovakia and from the permanent observer for the League of Arab States. The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, the Subcommittee could take no formal decision on the matter, but that the representatives of Bolivia, Cuba, Finland, Republic of Korea and Slovakia and the observer for the League of Arab States might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.

9. A list of representatives of States members of the Subcommittee, States not members of the Subcommittee, specialized agencies and other organizations attending the session and of staff members in the secretariat of the Subcommittee is contained in document A/AC.105/C.2/INF.30.

Organization of work

10. In accordance with decisions taken at its opening meeting, the Legal Subcommittee organized its work as follows:

(a) The Subcommittee recalled its recommendation, endorsed by the Committee on the Peaceful Uses of Outer Space,[3] that the yearly rotation of the order of consideration of substantive agenda items on a permanent basis (as recommended by the Committee)[4] should be suspended at the current session of the Subcommittee and that it should consider the substantive items on its agenda (see paragraph 5 above) in the following order: items 4, 5 and 3;

(b) In accordance with the recommendation endorsed by the Committee on the Peaceful Uses of Outer Space,[3] the Subcommittee agreed to suspend, for the current session, its Working Group on agenda item 3;

(c) The Subcommittee re-established its Working Group on agenda item 4, open to all members of the Subcommittee, and agreed that Gabriel Maffei (Argentina) should serve as its Chairman;

(d) In accordance with the recommendation of the Committee on the Peaceful Uses of Outer Space,[4] the Subcommittee continued its informal consultations, led by its Chairman, with a view to coming up with a list of annotated items agreed upon by consensus that could be considered by the Committee at its forty-first session for possible inclusion in the agenda of the Subcommittee;

(e) The Subcommittee began its work each day with a plenary meeting to hear delegations wishing to address it, and then it adjourned and reconvened, when appropriate, as a working group.

11. The following delegations participated in the general exchange of views: Argentina, Brazil, Canada, China, Colombia, Czech Republic, Ecuador, France, Germany, Greece, India, Indonesia, Italy, Japan, Mexico, Republic of Korea, Russian Federation, Spain, United Kingdom and United States, as well as IAF. The views expressed by those delegations are contained in verbatim (unedited) transcripts COPUOS/Legal/T.605-608.

12. At the opening meeting, the Chairman made a statement concerning the utilization of conference services by the Subcommittee. He drew attention to the importance that the General Assembly and the Committee on Conferences attached to the effective utilization of conference services by all United Nations deliberative bodies. In view of that, the Chairman proposed, and the Subcommittee agreed, that the following measures, similar to those adopted previously, should also be adopted at the current session of the Subcommittee:

(a) The Subcommittee and its working groups should begin their meetings punctually at the scheduled time, even if there was no quorum (16 members);

(b) The morning meetings of the Subcommittee or its working group should begin at 10 a.m. with the understanding that that did not relate to and did not affect the question of the length of the session;

(c) Delegations wishing to speak at the next plenary meeting of the Subcommittee should inform the Chairman of their intention before the adjournment of the previous plenary meeting; if no such information was received by the Chairman, the next plenary meeting of the Subcommittee should be cancelled and a working group should meet instead;

(d) Conference services should be notified as early as possible whenever it was anticipated that any of the services usually provided were not going to be required; if possible, prior notice of 24 hours should be given;

(e) The Chairman should set a deadline for closing the list of speakers for the general exchange of views and for each of the substantive agenda items;

(f) The Subcommittee should not have plenary meetings in the afternoons when the agenda item on matters relating to the definition of outer space and to the utilization of geostationary orbit was considered; instead, the working group on that item should meet;

(g) There should be the possibility of holding informal meetings and consultations outside the work schedule of the Subcommittee;

(h) Working group meetings could be cancelled on an ad hoc basis if informal consultations were required; however, the practice of cancelling those meetings in advance in order to conduct informal consultations should not be reintroduced. Informal consultations (i.e. outside the auspices of the Subcommittee and its working groups) should not interrupt the work of the Subcommittee or its working groups;

(i) Informal meetings and consultations of the Subcommittee and its working groups held during the work schedule of the Subcommittee should be provided with interpretation services;

(j) When adopting and following the schedule of work, the Subcommittee should exercise flexibility in the allocation of time for consideration of items on its agenda. If the time previously allocated for the consideration of an item was not fully used or was unlikely to be used, the Subcommittee should seek, on the basis of consensus, to use the time for the consideration of other items on the agenda or, as the case might be, consider the possibility of concluding the session ahead of the scheduled date. The adoption of that measure was without prejudice to the position of various delegations concerning the duration of the sessions of the Subcommittee;

(k) The general rule for annexing documents to the report of the Subcommittee should be that normally any document would be annexed, if at all, only once to the report of the session in which it was first submitted, but not to later reports.

13. The Subcommittee agreed that a similar flexible organization of work as agreed upon at the current session would serve as the basis for organizing the work of its thirty-eighth session.

14. At its 605th meeting, on 23 March 1998, the Chairman proposed, and the Subcommittee agreed, to conclude the thirty-seventh session ahead of time in accordance with the measure contained in paragraph 12 (j) above. Specifically, the Subcommittee decided to conclude its work by 1 April 1998. The Subcommittee agreed that that reduction was without prejudice to the length of its future sessions.

15. With regard to its work for the next session, the Subcommittee agreed that, in view of its shortened thirty-eighth session, in 1999, in accordance with the preparations for the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III), the work of one of the working groups of the Subcommittee, namely the Working Group on agenda item 3, would be suspended for that session and that the items of the agenda should be considered in the following order: items 3, 5, 4 and 6. The adoption of the above measures is without prejudice to the positions of various delegations concerning the duration of the sessions of the Subcommittee.

16. The Legal Subcommittee noted with satisfaction that a symposium entitled "Review of the Status of the Outer Space Treaties", sponsored by the International Institute of Space Law in cooperation with the European Centre for Space Law, both based in Paris, was held following the 605th meeting of the Legal Subcommittee, on 23 March 1998, and agreed that the Institute and the Centre should again be invited, at its thirty-eighth session, to hold a symposium on space law.

17. At the 607th meeting of the Subcommittee, on 25 March 1998, a technical presentation was made by B. Smith (France) on the possible role of the Committee on the Peaceful Uses of Outer Space in applying the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex, of 19 December 1966) to intellectual property issues.

18. The Subcommittee held a total of eight meetings. The views expressed at those meetings are contained in verbatim (unedited) transcripts COPUOS Legal T.605-612.

19. At its 612th meeting, on 31 March 1998, the Subcommittee adopted the present report and concluded the work of its thirty-seventh session.

I. QUESTION OF REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (AGENDA ITEM 3)

20. The Chairman made an introductory statement on agenda item 3 at the 609th meeting, on 27 March 1998.

21. The Chairman drew attention to the fact that the General Assembly, in its resolution 52/56 of 10 December 1997, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee should continue its consideration of the question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space (General Assembly resolution 47/68 of 14 December 1992).

22. The Legal Subcommittee noted that the subject of the use of nuclear power sources in outer space had been considered by the Scientific and Technical Subcommittee at its thirty-fifth session, in 1998, as reflected in the report of that Subcommittee (A/AC.105/697 and Corr.1, paras. 67-81 and annex III). In particular, the Legal Subcommittee noted that the Scientific and Technical Subcommittee had agreed that, at the present time, revision of the Principles was not necessary (A/AC.105/697 and Corr.1, para. 69).

23. As mentioned in paragraph 10 (b) above, the Legal Subcommittee, at its 605th meeting, decided not to re-establish its Working Group on agenda item 3.

24. The Legal Subcommittee agreed that, at the present time, revision of the Principles was not warranted and that therefore it should not open discussion of that item during its current session.

25. The Legal Subcommittee noted that the Scientific and Technical Subcommittee at its thirty-fifth session, in 1998, had recommended suspending consideration of the item on the use of nuclear power sources in outer space for one year (A/AC.105/697 and Corr.1, paras. 81 and 153), in view of the preparations for UNISPACE III.

26. The Legal Subcommittee agreed that, at its thirty-eighth and thirty-ninth sessions, consideration by the Working Group on agenda item 3 of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space should again be suspended pending the results of the work of the Scientific and Technical Subcommittee, without prejudice to the possibility of reconvening the Working Group if, in the opinion of the Legal Subcommittee, sufficient progress was made in the Scientific and Technical Subcommittee at its thirty-seventh session, in the year 2000, to warrant the reconvening of the Working Group.

II. MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (AGENDA ITEM 4)

27. The Chairman made an introductory statement on agenda item 4 at the 605th meeting, on 23 March 1998. He referred to the work of the Legal Subcommittee at its thirty-sixth session, in 1997.

28. The Chairman drew attention to the fact that the General Assembly, in its resolution 52/56, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working group, its consideration of matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of ITU.

29. The Legal Subcommittee noted that the subject of the geostationary orbit had been considered by the Scientific and Technical Subcommittee at its thirty-fifth session, in 1998, as reflected in the report of that Subcommittee (A/AC.105/697 and Corr.1, paras. 113-122).

30. The Legal Subcommittee had before it a working paper prepared by the Secretariat in cooperation with ITU entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary satellite orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit" (A/AC.105/C.2/L.205), submitted to the Subcommittee at its thirty-sixth session, and a working paper entitled "Some considerations concerning the utilization of the geostationary satellite orbit" (A/AC.105/C.2/L.200 and Corr.1), submitted by Colombia to the Subcommittee at its thirty-fifth session. The Subcommittee also had before it a conference room paper (A/AC.105/C.2/1997/CRP.3/Rev.1) containing a compendium of relevant sections and/or documents referred to in the working paper submitted by Colombia, which had been before the Subcommittee at its thirty-sixth session.

31. At its thirty-fourth session, the Legal Subcommittee had finalized the text of a questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/607 and Corr.1, annex I, appendix) and had agreed that the purpose of the questionnaire was to seek the preliminary views of States members of the Committee on the Peaceful Uses of Outer Space on various issues relating to aerospace objects (A/AC.105/607 and Corr.1, para. 38). At its current session, the Subcommittee had before it a note by the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from member States" (A/AC.105/635 and Add.1-5). The Subcommittee also had before it a note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.204), which had been before the Subcommittee at its thirty-sixth session. In the discussion that took place in the Subcommittee at its current session, reference was made to a working paper entitled "Examination of the physical nature and technical attributes of the geostationary orbit; examination of its utilization and applications, including, *inter alia*, in the field of space communications, as well as other questions relating to space communications developments, taking particular account of the needs and interests of developing countries" (A/AC.105/C.1/L.216), which had been submitted by the Czech Republic to the Scientific and Technical Subcommittee at its thirty-fifth session.

32. The view was expressed that consideration of legal issues relating to aerospace objects could be conducted in two stages. During the first stage, from the year 2000 to 2005, when the use of aerospace objects would not be intense, legal issues associated with aerospace objects could be dealt with by directly applying space and air laws that had already been accepted or, if necessary, by creating certain new combined norms of international space and air law, for example, relating to innocent passage through airspace. During the second stage, from 2005 to 2010, when there would be intense use of aerospace objects, a proposal to enhance the international space and air laws could be developed, based on the experience that would be accumulated by that time in solving legal issues related to aerospace objects. That delegation was of the view that the Legal Subcommittee should recommend that the Committee on the Peaceful Uses of Outer Space should request its Scientific and Technical Subcommittee to examine scientific and technological aspects of aerospace objects, including their physical and functional features. While some delegations noted the above proposals with interest, other delegations were of the view that neither such a work plan nor such a recommendation to the Committee would be necessary.

33. Some delegations expressed the view that the Legal Subcommittee should establish a legal regime governing aerospace objects, taking into account the needs of users of the geostationary orbit.

34. The view was expressed that the consideration of questions relating to the legal aspects of exploiting aerospace systems would allow enhancement of the methodology and criteria for evaluating the problem of delimiting airspace and outer space in its resolution.

35. Some delegations expressed the view that it was premature to develop any definition of or rules governing aerospace objects when the lack of such a definition or rules had not caused any problems in conducting space activities. Some delegations also expressed the view that the Subcommittee should conclude its consideration of that issue.

36. Some delegations, while noting the work conducted by ITU relating to the utilization of the geostationary orbit, expressed the view that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee were the competent bodies to discuss the legal and political aspects of the matter and the establishment of a *sui generis* legal regime, in particular, which would ensure equitable access to the geostationary orbit by all States, in particular by developing countries, and that the Subcommittee should continue its consideration of those matters. Those delegations were of the view that progress could be made in the consideration of those matters based on the ideas contained in the working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1). Others noted that article 44, paragraph 2, of the Constitution of the International Telecommunication Union established a link between access to the orbit and the use of frequencies, which demonstrated the validity of ITU having been entrusted with responsibility for the overall management of space telecommunications.

37. The view was also expressed that any proposals to define or delimit outer space, to establish any new legal status or rules applicable to the geostationary orbit, or to recognize any preferential rights of any States in the geostationary orbit were not appropriate and that ensuring equitable access to the geostationary orbit was the responsibility of ITU.

38. Some delegations expressed the view that the Legal Subcommittee might provisionally defer the consideration of questions relating to relations between the Subcommittee and ITU and that the consideration by the Subcommittee of the utilization of the geostationary orbit should concentrate instead on the examination of ideas contained in the working paper submitted by Colombia, based on the progress made in the discussions on the subject at previous sessions of the Subcommittee.

39. Some delegations expressed the view that the effective utilization of the geostationary orbit should also be examined.

40. The view was expressed that discussion of the working paper of Colombia (A/AC.105/C.2/L.200 and Corr.1) should be given a more balanced nature, taking into account equally the interests of all States.

41. Some delegations expressed the view that the paper submitted by the Czech Republic to the Scientific and Technical Subcommittee provided a scientific and technical basis for further discussions in the Legal Subcommittee on the utilization of the geostationary orbit.

42. Some delegations were of the view that the consideration of agenda item 4 should be concluded. Other delegations were of the view that the Legal Subcommittee should continue its consideration of the item.

43. The full texts of the statements made by delegations during the discussion on agenda item 4 are contained in verbatim (unedited) transcripts COPUOS/Legal/T.605-608.

44. As mentioned in paragraph 10 (c) above, the Legal Subcommittee, at its 605th meeting, re-established the Working Group on agenda item 4 under the chairmanship of Gabriel Maffei (Argentina).

45. The Working Group on agenda item 4 held four meetings. At the 610th meeting, on 30 March 1998, the Chairman of the Working Group reported to the Legal Subcommittee. The Subcommittee took note of the report of the Working Group, which is set out in annex I to the present report.

III. REVIEW OF THE STATUS OF THE FIVE INTERNATIONAL LEGAL INSTRUMENTS GOVERNING OUTER SPACE (AGENDA ITEM 5)

46. The Chairman made an introductory statement on agenda item 5 at the 607th meeting, on 25 March 1998.

47. The Chairman drew attention to the fact that, on the basis of a recommendation of the Legal Subcommittee at its thirty-sixth session, in 1997 (A/AC.105/674, para. 43), the General Assembly, in its resolution 52/56, had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Subcommittee, at its current session, should begin its review of the status of the five legal instruments governing outer space.

48. The Subcommittee had before it a note by the Secretariat on the review of the status of the five international legal instruments governing outer space (A/AC.105/C.2/L.210) and a working paper on the same subject submitted by Germany on behalf of the member States of ESA and States having signed cooperation agreements with ESA (A/AC.105/C.2/L.211).*

49. Some delegations reported on the current status of and further intended action concerning their accession to the five international legal instruments governing outer space.

50. Some delegations recalled that the purpose of agenda item 5, as recommended by the Legal Subcommittee at its thirty-sixth session (A/AC.105/674, para. 43) and endorsed by the Committee on the Peaceful Uses of Outer Space at its fortieth session,[7] was not in any way to reopen substantive debate on or to revise or amend the five international legal instruments governing outer space. Instead, in its consideration of that agenda item, the Legal Subcommittee should restrict itself to reviewing the current status of the accession and adherence of States to those instruments with a view to maximizing accession and adherence to those instruments.

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*As indicated in paragraph 70 below, at the 610th meeting, the delegation of Germany, on behalf of the co-sponsors, introduced a revised version of the working paper (A/AC.105/C.2/L.211/Rev.1), which is contained in annex II to the present report. Section III of the revised version of the working paper outlined a proposal for a new agenda item, while sections I and II were for consideration by the Legal Subcommittee under agenda item 5.

51. However, some delegations expressed the view that the review by the Legal Subcommittee of the status of the international legal instruments governing outer space could lead to the identification of additional agenda items aimed at the substantive review of those instruments.

52. Some delegations expressed the view that, while the Legal Subcommittee should certainly focus on the degree of formal accession and ratification of the five international legal instruments governing outer space by States, the practical adherence of States to the provisions of those instruments to which they were already parties should also be reviewed under agenda item 5. The view was also expressed that perhaps a monitoring body needed to be established to verify and encourage such adherence.

53. Some delegations expressed the view that the five international legal instruments governing outer space were, by their nature, interdependent and that therefore an overall approach should be taken in their review and analysis in relation to possible future revision and amendment.

54. However, the view was expressed that, under agenda item 5, the Subcommittee should focus its attention on the review of the status of universal accession to the Outer Space Treaty, as the provisions of that instrument constituted principles of universal application and importance to all States and therefore warranted the fullest accession. That delegation also expressed the view that accession to the other, more recent international legal instruments governing outer space should be assessed taking into consideration the practical bearing of each specific instrument on different States.

55. The view was expressed that two issues should be dealt with regarding the consideration of agenda item 5: the approach and methodology to be taken. In the case of the approach, that delegation was of the view that it should be comprehensive, as the issues involved were closely interrelated. As for the methodology, that delegation was of the view that the agenda item should be considered in the following stages: circulation of requests addressed to member States, specialized agencies and other international organizations, seeking their views on the subject; analysis of those views, first in the Scientific and Technical Subcommittee and thereafter in the Legal Subcommittee (or possibly through a joint working group); preparation of a list of possible changes to the five international legal instruments governing outer space; examination of the question of how such changes comply with other branches of international law and the Charter of the United Nations; reaching of agreement on those changes; consideration of the possibility of adopting the changes as a package; and consideration of the question of how those changes should be put into force, with a view to doing that in a consolidated manner.

56. Some delegations expressed the view that greater practical adherence to the principles embodied in the Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex, of 29 November 1971) could be achieved if more States were to make declarations in accordance with paragraph 3 of Assembly resolution 2777 (XXVI), thereby binding themselves on a reciprocal basis to the decisions of a Claims Commission established in accordance with article XIV of the Convention. Those delegations also expressed the view that such declarations by States parties would enhance the effectiveness and credibility of the Convention.

57. Some delegations expressed the view that a lack of accession to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex, of 5 December 1979) by the major space-faring States weakened its universal nature and discouraged other States from acceding to it. The view was expressed that failure to establish an international regime to govern the exploitation of natural resources of the Moon in accordance with the provisions of the instrument contributed to the problem. The view was also expressed that current space-faring States should play a leading role in the development and improvement of the legal principles and regimes governing the peaceful use of outer space.

58. Some delegations expressed the view that, with the rapid evolution of technology and organization of space activities, the Legal Subcommittee needed to maintain its leading role in the development of legal principles and the identification of improvements to the existing legal principles and instruments governing the peaceful use of outer space.

59. The Subcommittee agreed that the Secretariat should be requested to prepare, within existing resources, a list of international agreements and other available legal documents relevant to space-related activities, indicating where they might be found, as a working document for member States. The Subcommittee noted that, in preparing the list, the Secretariat might wish to seek assistance from member States. The Subcommittee also noted that the list could be put in electronic format and incorporated into the existing databases on space law, so that it would be useful for research and would be updated regularly. The Secretariat was also requested to explore the possibility of making the list available as an official document of the United Nations. In addition, the list should also incorporate international agreements and legal documents relating to environmental law that might be relevant to space-related activities.

60. The Subcommittee noted that sections I and II of the working paper submitted by Germany on behalf of member States of ESA and States having signed cooperation agreements with ESA should be considered under agenda item 5, while section III of that working paper should be considered under agenda item 6.

61. The Legal Subcommittee noted that, pursuant to a recommendation made during the fortieth session of the Committee on the Peaceful Uses of Outer Space,[8] a working group would be established to consider agenda item 5 during the thirty-eighth session of the Subcommittee, in 1999.

62. Some interested States engaged in informal discussions concerning matters relating to agenda item 5. The results of those discussions were reported to the Subcommittee at its 610th meeting by the coordinator of the informal discussions.

63. At the 610th meeting, on 30 March 1998, the delegation of the Russian Federation submitted a working paper on the review of the status of the five international legal instruments governing outer space (A/AC.105/C.2/L.213), which is contained in annex II to the present report. There was no debate on that working paper.

64. The full texts of the statements made by delegations during the debate on agenda item 5 are contained in verbatim (unedited) transcripts COPUOS/Legal/T.607-610.

IV. OTHER MATTERS (AGENDA ITEM 6)

65. At the 609th meeting, on 27 March 1998, the Chairman introduced agenda item 6, on other matters.

A. Informal consultations on new items for the agenda

66. In accordance with a recommendation of the Committee on the Peaceful Uses of Outer Space at its fortieth session,[9] the Legal Subcommittee continued to conduct its informal consultations with a view to coming up with a list of annotated items agreed upon by consensus that could be considered by the Committee at its forty-first session for possible inclusion in the agenda of the Subcommittee. The Committee at its thirty-ninth session had agreed that each proposed item should have a multi-year work plan that would address, among other things, the objectives of the work to be undertaken, any reports to be provided by the Secretariat and member States and the possible end-product.[10]

67. The Subcommittee recalled that at its thirty-sixth session, in 1997, the following items had been discussed for possible inclusion in the agenda of the Subcommittee or had been recommended for inclusion in that agenda (A/AC.105/674, paras. 39 and 43):

(a) Review of the status of the five international legal instruments governing outer space, proposed by the delegation of Mexico;

(b) Commercial aspects of space activities (e.g. property rights, insurance and liability), proposed by the delegation of Argentina;

(c) Review of existing norms of international law applicable to space debris, proposed by the delegation of the Czech Republic;

(d) Legal aspects of space debris, proposed by the delegations of Brazil and the Czech Republic;

(e) Comparative review of the principles of international space law and international environmental law, proposed by the delegation of Chile.

68. The Subcommittee also recalled that the Committee at its fortieth session had discussed the possibility of including in the agenda an item proposed by the delegation of Greece entitled "Review of the Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting and the Principles Relating to Remote Sensing of the Earth from Outer Space, with a view to possibly transforming those texts into treaties in the future".[11]

69. The Subcommittee noted two additional proposals for new agenda items:

(a) Improvement of the Convention on Registration of Objects Launched into Outer Space, proposed by the delegation of Germany on behalf of the member States of ESA and States having signed cooperation agreements with ESA (A/AC.105/C.2/L.211, paras. 10-13);

(b) Examination of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 as a model to encourage wider accession to the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, proposed by the delegation of the Netherlands (A/AC.105/C.2/L.210, para. 22).

70. At the 610th meeting, the delegation of Germany, on behalf of the co-sponsors, introduced a revised version of its working paper (A/AC.105/C.2/L.211/Rev.1), which is set out in annex II to the present report. Section III of the working paper contained a proposal for a new agenda item.

71. At the 611th meeting, the Chairman informed the Subcommittee of the outcome of the informal consultations on new agenda items, which was as follows:

(a) Spain had withdrawn from consideration its proposal, "Comparative study of the provisions of the law of the sea and international space law", which had been discussed by the Committee also at its thirty-ninth session,[12] in 1996, noting that it had been similar to the proposal by the Netherlands, referred to in paragraph 69 (b) above;

(b) Brazil, Greece and the Netherlands had announced that their proposals could be considered at a later stage, as other items being considered could have higher priority;

(c) Argentina and Chile had announced that a work plan would be submitted with regard to their respective proposals;

(d) Some delegations had expressed the view that they could support the proposal by the Czech Republic regarding a review of existing norms of international law applicable to space debris;

(e) During the informal consultations, some delegations had mentioned, without making any formal proposals, other topics that might be included as items on the agenda of the Subcommittee.

72. At the 611th meeting, the Chairman proposed and the Legal Subcommittee agreed that the discussion on the proposal contained in section III of the working paper submitted by Germany on behalf of the co-sponsors (A/AC.105/C.2/L.211/Rev.1) should be continued in the main committee with a view to possibly reaching consensus on including the item proposed in the working paper as a new item on the agenda of the Subcommittee.

B. Contribution of the Legal Subcommittee to the Third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III)

73. The Subcommittee noted that during the general exchange of views some delegations expressed the view that the Legal Subcommittee should and could make its own contribution to the successful conclusion of UNISPACE III, in particular to the consideration of agenda items relating to the promotion of international cooperation in space-related activities and the development of space law.

74. During the current session of the Legal Subcommittee, the delegation of Argentina proposed that UNISPACE III should consider legal aspects of space activities an important part of its work and that the Subcommittee should make a contribution to the work of UNISPACE III in its consideration of legal issues.

75. The Subcommittee welcomed that, under item 7 (d) of the provisional agenda of UNISPACE III, there would be a review of the current status of the law of outer space, including ways and means of promoting wider adherence to the existing international space treaties and principles (A/AC.105/672, annex II, para. 22).

76. The Subcommittee also noted the following:

(a) The Advisory Committee, at its 1998 session, had adopted the report of the Working Group of the Whole, including the recommendation that the Chairman of the Legal Subcommittee should be included as a member of the bureau of the Conference (A/AC.105/697 and Corr.1, annex II, para. 21);

(b) The background paper on the promotion of international cooperation that was being prepared by the Secretariat would cover issues relating to international space law;

(c) A workshop or symposium on space law would be organized by the International Institute of Space Law (A/AC.105/685 and Corr.1, para. 34);

(d) The draft report of UNISPACE III, to be prepared by the Preparatory Committee, would have a subsection on space law in the section entitled "Promotion of international cooperation". The Subcommittee noted that it would have the opportunity to provide comments on the draft report of UNISPACE III at its thirty-eighth session, in 1999.

77. The Legal Subcommittee recommended that the Chairman of the Legal Subcommittee should report to UNISPACE III on the work of the Subcommittee, including its past achievements, current work and new challenges in the development of space law.

Notes

[1]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 20* (A/52/20), annex I.

[2]Ibid., annex I, para. 4.

[3]*Official Records of the General Assembly, Fifty-second Session, Supplement No. 20* (A/52/20), para. 175.

[4]Ibid., *Forty-fifth Session, Supplement No. 20* (A/45/20), para. 143.

[5]Ibid., *Fifty-first Session, Supplement No. 20* (A/51/20), para. 212.

[6]Ibid., para. 211 (c).

[7]Ibid., *Fifty-second Session, Supplement No. 20* (A/52/20), para. 130.

[8]Ibid., para. 132.

[9]Ibid., para. 173 (d).

[10]Ibid., *Fifty-first Session, Supplement No. 20* (A/51/20), para. 152.

[11]Ibid., *Fifty-second Session, Supplement No. 20* (A/52/20), para. 134.

[12]Ibid., *Fifty-first Session, Supplement No. 20* (A/51/20), para. 151.

Annex I

REPORT OF THE CHAIRMAN OF THE WORKING GROUP ON AGENDA ITEM 4, ENTITLED "MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION"

1. On 23 March 1998, the Legal Subcommittee re-established its Working Group on agenda item 4 under the chairmanship of Gabriel Maffei (Argentina).

2. The Working Group on agenda item 4 had before it the report of the Legal Subcommittee on the work of its thirty-sixth session, held in 1997, which contained the report of the Chairman of the Working Group at that session (A/AC.105/674, annex I). The Working Group also had before it the report of the Scientific and Technical Subcommittee on the work of its thirty-fifth session, held in 1998, reflecting, *inter alia*, the discussion of that body on the subject of the physical nature and technical attributes of the geostationary orbit (A/AC.105/697 and Corr.1, paras. 113-122).

3. The following documents, submitted at previous sessions and at the current session of the Legal Subcommittee, were referred to in the course of the discussion: a note by the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from member States" (A/AC.105/635 and Add.1-5); a note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.204), submitted at the thirty-sixth session; a working paper entitled "Some considerations concerning the utilization of the geostationary satellite orbit" (A/AC.105/C.2/L.200 and Corr.1), submitted by Colombia at the thirty-fifth session; a compendium (A/AC.105/C.2/1997/CRP.3/Rev.1) of relevant sections and/or documents referred to in the working paper submitted by Colombia, circulated by the Secretariat at the thirty-sixth session; and a working paper prepared by the Secretariat in cooperation with the International Telecommunication Union (ITU) entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit" (A/AC.105/C.2/L.205), submitted at the thirty-sixth session.

4. On the question of the organization of its work, pursuant to a recommendation by its Chairman, the Working Group agreed that each aspect of the agenda item, namely, the definition and delimitation of outer space, on the one hand, and the geostationary orbit, on the other, should be discussed separately by the Working Group.

5. The views expressed in the discussions of the Working Group are summarized below.

Geostationary orbit

6. The Chairman of the Working Group referred to the following documents: the working paper submitted by Colombia entitled "Some considerations concerning the utilization of the geostationary orbit" (A/AC.105/C.2/L.200 and Corr.1); the conference room paper (A/AC.105/C.2/1997/CRP.3/Rev.1) containing the compendium of relevant sections and/or documents referred to in that working paper; and the working paper prepared by the Secretariat in cooperation with ITU entitled "An analysis of the compatibility of the approach contained in the working paper entitled 'Some considerations concerning the utilization of the geostationary

orbit' with the existing regulatory procedures of the International Telecommunication Union relating to the use of the geostationary orbit" (A/AC.105/C.2/L.205).

7. Some delegations expressed the view that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee had a mandate from the General Assembly to consider questions relating to the use of the geostationary orbit with a view to elaborating legal principles on the issue and that the Subcommittee should consider policy and legal matters of the geostationary orbit and thus complement the activities of ITU, which considered technical aspects of the geostationary orbit. They believed that there was a need to establish a *sui generis* legal regime for regulating access to and the use of the geostationary orbit, which was a limited natural resource. Such a regime should guarantee equitable access to the geostationary orbit for all States, taking particular account of the needs of developing countries. One of those delegations believed that such a regime should take into account, in particular, the needs of the equatorial countries, due to their special geographical characteristics.

8. The view was expressed that, in continuing its work on the character and utilization of the geostationary orbit, the Legal Subcommittee should place emphasis on ensuring equitable access to the geostationary orbit by all countries, which had not been achieved through the work of ITU. That delegation was of the view that the Subcommittee could continue its consideration of the matter on the basis of ideas provided in the working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1) with the aim of improving its text so that it would better reflect the interests of all countries.

9. The view was expressed that an analysis of the physical aspects of the geostationary satellite orbit was provided in a working paper entitled "Examination of the physical nature and technical attributes of the geostationary orbit; examination of its utilization and applications, including, *inter alia*, in the field of space communications, as well as other questions relating to space communications developments, taking particular account of the needs and interests of developing countries" (A/AC.105/C.1/L.216), submitted by the Czech Republic to the Scientific and Technical Subcommittee at its thirty-fifth session, and that, because the geostationary orbit was an integral part of outer space, the legal regime established by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex, of 19 December 1966) adequately covered activities in and related to the geostationary orbit. That delegation was therefore of the view that the geostationary satellite orbit was not subject to national appropriation and should not be subject to a *sui generis* legal regime. In the view of the delegation, any preferential rights to the orbit would be contradictory to the Outer Space Treaty.

10. The view was expressed that it was unclear whether or not further consideration by the Legal Subcommittee of the working paper submitted by Colombia, and the possible adoption of a document as a result of such consideration, would lead to the conclusion of the consideration by the Subcommittee of matters related to the utilization of the geostationary orbit.

Definition and delimitation of outer space

11. The Chairman of the Working Group referred to the note by the Secretariat entitled "Questionnaire on possible legal issues with regard to aerospace objects: replies from member States" (A/AC.105/635 and Add.1-5) and the note by the Secretariat entitled "Comprehensive analysis of the replies to the questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/L.204). There were no views expressed on the subject in the Working Group.

Annex II

WORKING PAPERS ON AGENDA ITEM 5, ENTITLED "REVIEW OF THE STATUS OF THE FIVE INTERNATIONAL LEGAL INSTRUMENTS GOVERNING OUTER SPACE"

Working paper submitted by Germany on behalf of Austria, Belgium, Czech Republic, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland (A/AC.105/C.2/L.211/Rev.1 of 30 March 1998)

INTRODUCTION

1. The States submitting the present working paper, i.e. the member States of the European Space Agency (ESA) and States having signed cooperation agreements with ESA, welcome the introduction of the agenda item entitled "Review of the status of the five international legal instruments governing outer space". In the first part of this working paper, the signatories inform the Legal Subcommittee of the status of their accession to those legal instruments, pursuant to a request by the Secretary-General in his note verbale dated 14 July 1997. In the second part of this working paper, a proposal for drawing up an inventory of relevant legal texts by the Secretariat is made. In the third part of this working paper, the Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, of 12 November 1974), which was opened for signature on 14 January 1975 and which entered into force on 15 September 1976, is identified as the legal instrument that could be improved further. To that end, a work plan on that subject is set out.

I. STATUS OF THE LEGAL INSTRUMENTS CONCERNING THE STATES SUBMITTING THE PRESENT WORKING PAPER

2. The table below outlines the status of the legal instruments concerning the States submitting this working paper:

Status of the legal instruments concerning the States submitting the working paper

Country	*Outer Space Treaty*[a] *(1967)*	*Rescue Agreement*[b] *(1968)*	*Liability Convention*[c] *(1972)*	*Registration Convention*[d] *(1975)*	*Moon Agreement*[e] *(1979)*
Austria	Ratified	Ratified	Ratified	Ratified	Ratified
Belgium	Ratified	Ratified	Ratified	Ratified	..
Czech Republic	Ratified	Ratified	Ratified	Ratified	..
Denmark	Ratified	Ratified	Ratified	Ratified	..
Finland	Ratified	Ratified	Ratified	..	..
France	Ratified	Ratified	Ratified	Ratified	Signed
Germany	Ratified	Ratified	Ratified	Ratified	..
Greece	Ratified	Ratified	Ratified	Signed	Signed
Hungary	Ratified	Ratified	Ratified	Ratified	..
Ireland	Ratified	Ratified	Ratified	Ratified	..
Italy	Ratified	Ratified	Ratified	..	..
Netherlands	Ratified	Ratified	Ratified	Ratified	Ratified
Norway	Ratified	Ratified	Ratified	Ratified	..

Country	*Outer Space Treaty*[a] (1967)	*Rescue Agreement*[b] (1968)	*Liability Convention*[c] (1972)	*Registration Convention*[d] (1975)	*Moon Agreement*[e] (1979)
Poland	Ratified	Ratified	Ratified	Ratified	
Portugal	..	Ratified	..	..	..
Romania	Ratified	Ratified	Ratified	..	Signed
Spain	Ratified	..	Ratified	Ratified	..
Sweden	Ratified	Ratified	Ratified	Ratified	..
Switzerland	Ratified	Ratified	Ratified	Ratified	..
United Kingdom	Ratified	Ratified	Ratified	Ratified	..

[a]Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI), annex, of 19 December 1966).

[b]Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex, of 19 December 1967).

[c]Convention on International Liability for Damage Caused by Space Objects (General Assembly resolution 2777 (XXVI), annex, of 29 November 1971).

[d]Convention on Registration of Objects Launched into Outer Space (General Assembly resolution 3235 (XXIX), annex, of 12 November 1974).

[e]Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (General Assembly resolution 34/68, annex, of 5 December 1979).

[f]Procedure in progress.

3. ESA has accepted the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (General Assembly resolution 2345 (XXII), annex, of 19 December 1967), the Convention on International Liability for Damage Caused by Space Objects (Assembly resolution 2777 (XXVI), annex, of 29 November 1971) and the Registration Convention.

II. INVENTORY OF RELEVANT LEGAL TEXTS

4. Since the entry into force of the Outer Space Treaty on 10 October 1967, as well as other treaties and sets of principles, the body of law governing space and space activities has considerably developed, to a great extent outside the Committee on the Peaceful Uses of Outer Space and without its Legal Subcommittee being involved. In consequence, space law as a whole has become fragmented, difficult to grasp and, in some areas, of doubtful coherence. Are the new developments consistent with the United Nations treaty law? Has the primary law been taken into account and, if so, how?

5. These new developments demonstrate the necessity and vitality of space law in general and the efforts it is making to produce imaginative practical solutions corresponding as closely as possible to evolving realities. The Committee, supported by its Legal Subcommittee in particular, is in a manner of speaking the custodian of this primary law, the roots of the tree, while remaining attentive to potential needs arising as space activities evolve.

6. The primary and secondary sources of space law have multiplied:

(a) Texts are adopted or considered under the auspices of other universal international organizations, such as the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the International Civil Aviation Organization, the International Telecommunication Union, the World Meteorological Organization and the World Intellectual Property Organization;

(b) In the context of the Conference on Disarmament;

(c) Specific international organizations that have been set up also draw up texts (the International Telecommunications Satellite Organization (INTELSAT), the International Mobile Satellite Organization (Inmarsat), ESA, the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), the European Telecommunications Satellite (EUTELSAT), the Arab Satellite Communications Organization (ARABSAT), the International Organization of Space Communications (INTERSPUTNIK) etc.);

(d) Non-governmental organizations (the International Law Association, the International Institute of Space Law of the International Astronautical Federation etc.);

(e) International cooperation, a very significant factor, also generates bilateral or multilateral legal texts that are of interest (e.g. the intergovernmental agreement on the international space station and the memoranda of understanding for its implementation; the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techn·ques; access to and use of Earth observation satellites, scientific satellites etc.);

(f) The International Institute for the Unification of Private Law (Unidroit) conference and its draft for a future convention on international guarantees, with provisions relevant to satellites.

7. Also to be borne in mind are the legislation (directives and regulations) adopted by the European Union (on telecommunications, patents and copyright), national legislation, and available contracts on various relevant subjects (launch services, insurance etc.).

8. An overview of the law in existence has become difficult, but is nevertheless essential. It is accordingly proposed that the Secretariat be instructed, at the thirty-seventh session of the Legal Subcommittee, in 1998, to draw up an inventory, a list of the texts in existence and where to find them, as a working document for the member States. Such a document would be most useful to the Legal Subcommittee in its work.

9. In order to carry out this task, the Secretariat would need active assistance from delegations, also under consideration of already existing text collections.* The resulting inventory could also be put on CD-ROM and be incorporated into the existing databases on space law, so that it would also be useful for research. It would of course be updated regularly.

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*In particular, Stephen Gorove, ed., *United States Space Law: National and International Regulation* (New York: Oceana Publishers, 1982) and Karl-Heinz Böckstiegel and Marietta Benkö, eds., *Space Law: Basic Legal Documents* (Dordrecht/Boston/London: Martinus Nijhoff Publishers, 1988).

III. IMPROVING THE REGISTRATION CONVENTION

10. The States submitting the present working paper regard the Registration Convention as an important legal instrument and recognize its close relation with the Outer Space Treaty and the Liability Convention. They do not seek in any way to change the text of the Registration Convention itself but to clarify and possibly supplement the Registration Convention with texts reflecting experience with the Convention and new technological and legal developments.

11. Five topics should be discussed in the context of an improvement of the Registration Convention:

(a) Article IV, paragraph 1, of the Registration Convention requires States of registry to furnish information to the Secretary-General of the United Nations concerning each space object carried on its registry "as soon as practicable". The aim should be to introduce a time limit for furnishing the required information;

(b) Article IV, paragraph 1, of the Registration Convention sets out the single pieces of information concerning the space objects launched. This information should be extended, to include, for example, information on the mass of the space object;

(c) Article I of the Registration Convention defines the term "launching State" following article I of the Liability Convention. New developments in the field of launching technology and the privatization of this sector could lead to the conclusion that this definition is not sufficient. Therefore, on the basis of a technical review in the Scientific and Technical Subcommittee—which should also be conducted for the topic listed in subparagraph (b) above, before a discussion begins in the Legal Subcommittee—it should be investigated whether the definition of the term "launching State" still adequately covers all launching activities;

(d) In order to explore each entity linked with the launching activities, it is suggested that the Legal Subcommittee should proceed with an analysis of potential questions related to international organizations when implementing the Registration Convention;*

(e) In order to strengthen the status of certain parts of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, adopted by the General Assembly in its resolution 47/68 of 14 December 1992, which are related to the Registration Convention in the sense that they enable States to obtain relevant information in the event that a space object is malfunctioning with the risk of re-entry of radioactive materials to Earth or in case of an accident, the following principles should be included into the supplement to the Registration Convention: principles 5 (Notification of re-entry), 6 (Consultations) and 7 (Assistance to States).

12. All results, which would be agreed upon in the Committee on the Peaceful Uses of Outer Space, should be adopted by the General Assembly in resolutions and eventually be transformed into international law as a supplementary international legal instrument to the Registration Convention, ratified by all States.

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*ESA will undertake, at the invitation of its member States and in liaison with other interested organizations, an analysis of the rights and obligations of international organizations conduc: .g space activities with respect to the five international legal instruments governing outer space.

13. As for a work plan on that subject, the following three-year plan is proposed:

First year:

Scientific and Technical Subcommittee

New elements of information for notification
New technical concepts for launching (e.g. from platforms on the high sea)

Legal Subcommittee

Article IV, paragraph 1, time limit for "as soon as practicable"

Second year:

Scientific and Technical Subcommittee

Finalizing discussion on the two technical points

Legal Subcommittee

Incorporation of the relevant parts of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space
Status of international organizations

Third year:

Legal Subcommittee

New elements of information for notification
New technical concepts for launching (clarification of "launching State")
Finalization of a draft supplementary international legal instrument

14. The work plan should start at the thirty-ninth session of the Legal Subcommittee, in the year 2000, under a separate agenda item dealt with through a working group. In the Scientific and Technical Subcommittee, the work should accordingly start at the thirty-seventh session, in the year 2000.

Working paper submitted by the Russian Federation (A/AC.105/C.2/L.213 of 30 March 1998)

INTRODUCTION

1. The five main space treaties elaborated within the framework of the United Nations are inextricably interlinked. They can be neither applied nor interpreted in isolation from one another.

2. After the adoption of the 1967 Outer Space Treaty, each of the subsequent instruments was elaborated taking this Treaty and other, earlier space agreements into account. All five instruments form the basis of a special area of international law, namely international space law. The preambles of the four instruments adopted subsequent to the Treaty contain references to it.

3. Accordingly, in discussing item 5 of the agenda it is necessary to adopt a comprehensive and integrated approach whereby any decision to amend any of the five instruments may be taken only in conjunction with a decision to introduce the corresponding amendment in the remaining four instruments. Otherwise, conflicts may arise between the provisions of texts forming a single system of interrelated standards and principles of space law.

4. Should a decision be taken, on the basis of consensus, to introduce an amendment or addition in the current provisions of space law, it would be well advised, in the interests of ensuring that such a process is conducted in a comprehensive and coordinated fashion, to apply the methodology below.

METHODOLOGY FOR REVIEWING THE STATUS OF THE FIVE INTERNATIONAL LEGAL INSTRUMENTS GOVERNING OUTER SPACE

5. Addressing to the States parties to each of the five instruments a request to transmit to the Secretary-General their views on the advisability of introducing any refinements or additions in those instruments. The same request should also be addressed to interested specialized agencies within the United Nations system and to various international space organizations.

6. Analysis of the responses received and preparation of an expert opinion thereon by the Scientific and Technical Subcommittee of the Committee on the Peaceful Uses of Outer Space.

7. Analysis by the Legal Subcommittee of the expert opinion prepared by the Scientific and Technical Subcommittee and preparation by the former of a corresponding expert legal opinion. It may be considered preferable to assign this task to a working group composed of members drawn from both subcommittees.

8. Preparation by the Legal Subcommittee of draft provisions to be incorporated in texts amending each of the five existing instruments. Such drafts will also have to be considered from the perspective of their consistency with general international law, including the Charter of the United Nations, as well as the possible influence of such amendments on the legal regulation of issues still under discussion, such as nuclear power sources, space debris, the geostationary orbit, and the delimitation of airspace and outer space.

9. Reaching of agreement on organizational procedures for the official adoption of amendments to the five instruments on the basis of an integrated package approach.

CONCLUSION

10. The proposed methodology will make it possible to avoid fragmentation of international space law and to forestall situations whereby, instead of five instruments, 6-10 texts would be in effect simultaneously, thus creating for various groups of States differing rights and obligations in one and the same area of law.